

HEARING DATE AND TIME: MARCH 29, 2011 @9:45 A.M.
OBJECTION DEADLINE: MARCH 4, 2011 @ 4:00 PM.

DEAN & FULKERSON

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Attorneys for Sundram Fasteners Limited

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

	X	
	:	
	:	Chapter 11 Case No.
In re	:	
	:	09-50026 (REG)
MOTORS LIQUIDATION COMPANY, et al.,	:	
f/k/a General Motors Corp., et al.	:	
	:	(Jointly Administered)
Debtors.	:	
	:	
	X	

**RESPONSE OF SUNDRAM FASTENERS LIMITED
TO DEBTORS' 161ST OMNIBUS OBJECTION TO CLAIMS**

Sundram Fasteners Limited ("SFL") by its attorneys, DEAN & FULKERSON, submits its Response to Debtors' 161st Omnibus Objection to Claims to the extent that this objection pertains to SFL:

1. SFL is a Michigan corporation which is part of the TVS Group, a conglomerate or related entity based in Chennai, India, conducting various business operations worldwide.

2. SFL filed a timely Proof of Claim in this matter pertaining to invoices owed to SFL by General Motors Corporation (now known as Motors Liquidation Company, referred to hereafter as "Old GM"). The original amount of this Proof of Claim was \$20,310.41. As indicated by the attached affidavit, SFL has since identified certain payments made upon the underlying invoices,

thus reducing the claim amount to \$20,041.34.

3. In pursuing this Proof of Claim, representatives of Old GM advised representatives of SFL that Old GM was not liable for the payments of the claim amounts because the underlying invoices had been assumed by General Motors, LLC (hereafter “New GM”). SFL, however, has not been able to obtain payment of these invoices by New GM because New GM has not listed the invoices in question as having been assumed from Old GM (See attached Affidavit of Sundram International, Inc., ¶¶3, 4).

4. SFL has repeatedly requested copies of any documentation in the possession of Old GM which would indicate that the invoices in question had been assumed by New GM but no such information ever has been provided. (Affidavit ¶4)

5. A properly filed proof of claim is *prima facie* evidence of the validity and amount of the claim. *Fullmer v U.S. (In re Fullmer)*, 962 F.2d 1463 (10th Cir. 1992); see also Fed. R. Bankr. P. 3001(f).

6. To overcome this *prima facie* evidence, the objecting party must bring forward evidence equal in probative force to that underlying the proof of claim. See *In re Wells*, 51 B.R. 563, 566 (D. Colo. 1985); *Collier on Bankruptcy*, ¶502.02 (15th ed rev. 2004) (“Should objection be taken, the objector must procure evidence and show facts tending to defeat the claim by probative force equal to that of the allegations in the proof of claim.”).

7. “Once a claim is filed, the trustee, or the debtor in possession carries the burden of going forward to meet, overcome, or at least equalize, the creditor’s evidence.” *In re Domme*, 163 B.R. 363 (D. Kan. 1994); see also *In re Allegheny International, Inc.* 954 F.2d 167, 173-74 (3d Cir. 1992); *In re Resyn Corp. v United States*, 851 F.2d 660, 663-64 (3d Cir. 1988). Indeed, the objector

must offer actual evidence sufficient to rebut the claim's presumed validity. See *In re White*, 168 B.R. 825, 829 (Bankr. D. Conn. 1994).

8. The Objection contains no evidence to disprove SFL's properly filed Proofs of Claim. Moreover, no evidence has been provided that the agreements underlying the SFL Claims were indeed assumed by New GM.

9. Thus, the Debtors' request for expungement of the SFL Claims fails to overcome the *prima facie* validity of SFL's timely filed Proofs of Claim as required by Bankruptcy Rule 3001.

10. Should SFL be provided with confirmation from New GM that the underlying claims in this matter have, in fact, been assumed by New GM, SFL will withdraw this response upon receipt of adequate assurance of payment by New GM.

CONCLUSION

For the reasons set forth, it is respectfully requested that the Debtors' Objections to the Claims of SFL be denied at this time.

Dated: March 3, 2011

By: /s/ John W. Bryant
JOHN W. BRYANT (P11331)
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Attorneys for Sundram Fasteners Limited

ATTACHMENT

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

	X	
	:	
	:	Chapter 11 Case No.
In re	:	
	:	09-50026 (REG)
MOTORS LIQUIDATION COMPANY, et al.,	:	
f/k/a General Motors Corp., et al.	:	
	:	(Jointly Administered)
Debtors.	:	
	:	
	X	

**AFFIDAVIT ON BEHALF OF SUNDARAM FASTENERS LIMITED IN RESPONSE
TO DEBTORS' 161ST OMNIBUS OBJECTION TO CLAIMS**

Sundram Fasteners Limited ("SFL") submits the following affidavit:

1. SFL is an Indian corporation which is part of the TVS Group, a conglomerate of related entities based in Chennai, India, conducting various business operations worldwide. The signer of this affidavit has responsibility for accounting and financial management matters related to the subject matter of this affidavit and is authorized to submit this affidavit on behalf of SFL.

2. Attached to this affidavit as Appendix A is the Proof of Claim filed by SFL in this matter. I have reviewed this document and it lists and accurately reflects the total of outstanding invoices owed to SFL by General Motors Corporation ("Old GM") as of May 31, 2009. SFL subsequently received payment of \$ 269.07 against Invoice No 9947752 but the balance amount of \$ 20,041.34 remains unpaid.

3. SFL has attempted to obtain payment of these invoices from General Motors, LLC ("New GM") but cannot obtain payment of these invoices from New GM because the invoices are not listed by New GM as being assumed by New GM.

4. Through our representatives in the United States, we have requested information from



Old GM (now Motors Liquidation Company) indicating that our outstanding invoices were among those being assumed by New GM but no such information has been provided.

5. The invoices relate to goods and services which were provided to Old GM and represent invoices for which Old GM should be responsible absent proof that the invoices have been assigned to or assumed by New GM.

6. Absent seeing proof from Old GM that the claims in question have been assigned to or assumed by New GM, SFL requests that its claims listed in the Proof of Claim be allowed and that Debtors' Objections be rejected.

VERIFICATION

I hereby state under penalty of perjury of the laws of the United States, that I have read the foregoing affidavit and that the information contained in that affidavit is true and correct to the best of my knowledge.

SUNDRAM FASTENERS LIMITED

By: 

V.G. Jagannathan

Title: EXECUTIVE DIRECTOR & SECRETARY

Dated: MARCH 02, 2011



APPENDIX A



UNITED STATES BANKRUPTCY COURT FOR THE SOUTHERN DISTRICT OF NEW YORK		PROOF OF CLAIM
<p>Name of Debtor (Check Only One):</p> <p><input checked="" type="checkbox"/> Motors Liquidation Company (f/k/a General Motors Corporation)</p> <p><input type="checkbox"/> MLCS, LLC (f/k/a Saturn, LLC)</p> <p><input type="checkbox"/> MLCS Distribution Corporation (f/k/a Saturn Distribution Corporation)</p> <p><input type="checkbox"/> MLC of Harlem, Inc. (f/k/a Chevrolet-Saturn of Harlem, Inc.)</p>	<p>Case No.</p> <p>09-50026 (REG)</p> <p>09-50027 (REG)</p> <p>09-50028 (REG)</p> <p>09-13558 (REG)</p>	<p><u>Your Claim is Scheduled As Follows:</u></p>
<p><small>NOTE: This form should not be used to make a claim for an administrative expense arising after the commencement of the case, but may be used for purposes of asserting a claim under 11 U.S.C. § 503(b)(9) (see Item # 5). All other requests for payment of an administrative expense should be filed pursuant to 11 U.S.C. § 503.</small></p>		
<p>Name of Creditor (the person or other entity to whom the debtor owes money or property): Sundram Fasteners Limited</p>	<p><input type="checkbox"/> Check this box to indicate that this claim amends a previously filed claim.</p> <p>Court Claim Number: _____ (if known)</p> <p>Filed on: _____</p>	
<p>Name and address where notices should be sent:</p> <p>801 W. Big Beaver Road, 5th Floor Troy, MI 48084-4767</p> <p>Telephone number: (248) 362-1300</p> <p>Email Address: Karetha@dfllaw.com</p>	<p><input type="checkbox"/> Check this box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars.</p> <p><input type="checkbox"/> Check this box if you are the debtor or trustee in this case.</p>	
<p>Name and address where payment should be sent (if different from above):</p>	<p>If an amount is identified above, you have a claim scheduled by one of the Debtors as shown. (This scheduled amount of your claim may be an amendment to a previously scheduled amount.) If you agree with the amount and priority of your claim as scheduled by the Debtor and you have no other claim against the Debtor, you do not need to file this proof of claim form, EXCEPT AS FOLLOWS: If the amount shown is listed as DISPUTED, UNLIQUIDATED, or CONTINGENT, a proof of claim MUST be filed in order to receive any distribution in respect of your claim. If you have already filed a proof of claim in accordance with the attached instructions, you need not file again.</p>	
<p>1. Amount of Claim as of Date Case Filed, June 1, 2009: <u>\$ 20,310.41</u></p> <p><small>If all or part of your claim is secured, complete item 4 below; however, if all of your claim is unsecured, do not complete item 4. If all or part of your claim is entitled to priority, complete item 5. If all or part of your claim is asserted pursuant to 11 U.S.C. § 503(b)(9), complete item 5.</small></p> <p><input type="checkbox"/> Check this box if claim includes interest or other charges in addition to the principal amount of claim. Attach itemized statement of interest or charges.</p>	<p>5. Amount of Claim Entitled to Priority under 11 U.S.C. § 507(a). If any portion of your claim falls in one of the following categories, check the box and state the amount.</p> <p>Specify the priority of the claim.</p> <p><input type="checkbox"/> Domestic support obligations under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).</p> <p><input type="checkbox"/> Wages, salaries, or commissions (up to \$10,950*) earned within 180 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier - 11 U.S.C. § 507(a)(4).</p> <p><input type="checkbox"/> Contributions to an employee benefit plan - 11 U.S.C. § 507(a)(5).</p> <p><input type="checkbox"/> Up to \$2,425* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use - 11 U.S.C. § 507(a)(7).</p> <p><input type="checkbox"/> Taxes or penalties owed to governmental units - 11 U.S.C. § 507(a)(8).</p> <p><input type="checkbox"/> Value of goods received by the Debtor within 20 days before the date of commencement of the case - 11 U.S.C. § 503(b)(9) (§ 507(a)(2)).</p> <p><input type="checkbox"/> Other - Specify applicable paragraph of 11 U.S.C. § 507(a)(___).</p> <p>Amount entitled to priority: \$ _____</p> <p><small>* Amounts are subject to adjustment on 4/1/10 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.</small></p>	
<p>2. Basis for Claim: <u>Goods sold</u></p> <p><small>(See instruction #2 on reverse side.)</small></p>	<p>6. Credits: The amount of all payments on this claim has been credited for the purpose of making this proof of claim.</p> <p>7. Documents: Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements or running accounts, contracts, judgments, mortgages, and security agreements. You may also attach a summary. Attach redacted copies of documents providing evidence of perfection of a security interest. You may also attach a summary. (See instruction 7 and definition of "redacted" on reverse side.)</p> <p>DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING.</p> <p>If the documents are not available, please explain in an attachment.</p>	
<p>3. Last four digits of any number by which creditor identifies debtor: <u>6143</u></p> <p>3a. Debtor may have scheduled account as: _____ <small>(See instruction #3a on reverse side.)</small></p>		
<p>4. Secured Claim (See instruction #4 on reverse side.)</p> <p>Check the appropriate box if your claim is secured by a lien on property or a right of setoff and provide the requested information.</p> <p>Nature of property or right of setoff: <input type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Equipment <input type="checkbox"/> Other</p> <p>Describe: _____</p> <p>Value of Property: \$ _____ Annual Interest Rate: _____ %</p> <p>Amount of arrearage and other charges as of time case filed included in secured claim, if any: \$ _____</p> <p>Basis for perfection: _____</p> <p>Amount of Secured Claim: \$ _____ Amount Unsecured: \$ _____</p>	<p>FOR COURT USE ONLY</p>	
<p>Signature: The person filing this claim must sign it. Sign and print name and title, if any, of the creditor or other person authorized to file this claim and state address and telephone number if different from the notice address above. Attach copy of power of attorney, if any.</p> <p>Date: <u>11/30/09</u></p> <p> Keith M. Aretha, Attorney for Creditor</p>		

ASN No	Inv No	Inv Date	Amount in US\$
4317	9905052	08/14/2004	180.00
43982	9906542	09/30/2004	101.84
44272	9907063	10/26/2004	180.00
44663	9907771	11/23/2004	900.00
50793	9909780	02/22/2005	83.00
52981	9913393	07/23/2005	266.20
53195	9913755	08/06/2005	88.74
53265	9913961	08/13/2005	266.20
54152	9915651	10/15/2005	913.00
60698	9918691	02/17/2006	209.41
73171	9933003	08/01/2007	162.68
73536	9933837	08/31/2007	86.05
82189	9940192	05/24/2008	780.87
605180	9918510	02/07/2006	1,032.62
632269	9923343	08/16/2006	1,626.80
643271	9925602	10/30/2006	569.38
644232	9925944	11/06/2006	162.68
713240	9929713	03/31/2007	13.05
715203	9929940	04/18/2007	569.38
724137	9931831	06/16/2007	195.22
825160	9940962	06/21/2008	195.22
43101SPO	9905522	08/31/2004	882.48
43101SPO	9905523	08/31/2004	662.40
50101SPO	9908814	01/12/2005	1,628.78
50302SPO	9909141	01/27/2005	31.35
50902SPO	9910145	03/08/2005	633.32
519104A	9911928	05/17/2005	913.00
53195A	9913756	08/06/2005	254.25
53235A	9913902	08/13/2005	180.00
534119A	9914312	08/27/2005	233.36
54802SPO	9917036	12/01/2005	261.37
603175A	9918020	01/28/2006	176.40
604124A	9918228	01/30/2006	81.34
61220NP	9919832	03/29/2006	81.34
618218A	9920855	05/09/2006	488.04
61989A	9921037	05/15/2006	81.34
643241A	9925642	10/30/2006	650.82
70620A	9928339	02/16/2007	176.40
72122NP	9931123	05/30/2007	7.05
72705A	9932267	06/30/2007	390.43
73519NP	9933878	08/31/2007	17.64
73519NPA	9933879	08/31/2007	1.44
74605NP	9935901	11/12/2007	162.68
917SPO242	9947203	04/24/2009	2,129.76
921SPO399	9947752	05/22/2009	269.07
ARSFR0199A	9946364	03/21/2009	176.40
BJSFR0307A	9946526	03/27/2009	176.40
DHSFR0226A	9946424	03/21/2009	83.05
DHSFR0236	9946494	03/27/2009	83.05
DHSFR0243A	9946426	03/21/2009	83.05
FWSFR0016	9946035	02/28/2009	732.06

20,310.41

CERTIFICATE OF SERVICE

John W. Bryant hereby certifies that on March 4, 2011, he caused a true and correct copy of the foregoing document to be served by the Court's ECF system upon all parties in interest.

Dated: March 4, 2011

/s/ John W. Bryant

John W. Bryant (P-11331)

DEAN & FULKERSON

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